

DEPARTMENT OF STATE REVENUE

04-20191123R.MOD

Memorandum of Decision: 04-20191123R
Sales Tax
For Tax Period October 2015

NOTICE: IC § 6-8.1-3-3.5 and IC § 4-22-7-7 require the publication of this document in the Indiana Register. This document provides the general public with information about the Department's official position concerning a specific set of facts and issues. This document is effective as of its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register. The "Holding" section of this document is provided for the convenience of the reader and is not part of the analysis contained in this Memorandum of Decision.

HOLDING

Company did request its refund claim within the statutorily allotted three years. Thus, Company is granted its refund claim of the tax period of October 2015.

ISSUE

I. Sales Tax - Statute of Limitations.

Authority: IC § 6-8.1-9-1; *Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579 (Ind. 2014).

Taxpayer protests the partial denial of its claim for refund.

STATEMENT OF FACTS

Taxpayer is a company with operations in Indiana. Taxpayer requested a refund of sales tax paid for the tax period October 2015. The Indiana Department of Revenue ("Department") denied the refund request. Taxpayer protested the refund denial. Taxpayer waived its right to an administrative hearing. This Memorandum of Decision results. Additional facts will be provided as necessary.

I. Sales Tax - Statute of Limitations.

DISCUSSION

Taxpayer protests the Department's refund denial. Taxpayer submitted their refund claim on October 30, 2018. Taxpayer claimed they paid the sales tax November 20, 2015. The Department's refund denial letter states that the claim was denied due to the tax year 2015 being out of statute.

The Department initially notes that, "[W]hen [courts] examine a statute that an agency is 'charged with enforcing. . . [courts] defer to the agency's reasonable interpretation of [the] statute even over an equally reasonable interpretation by another party.'" *Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579, 583 (Ind. 2014). Thus, all interpretations of Indiana tax law contained within this decision, as well as all the Department's previous decisions, shall be entitled to deference.

The issue raised by Taxpayer is addressed at IC § 6-8.1-9-1(a) which states in relevant part:

If a person has paid more tax than the person determines is legally due for a particular taxable period, the person may file a claim for a refund with the department . . . [I]n order to obtain the refund, the person must file the claim with the department within three (3) years after the later of the following:

- (1) The due date of the return.
- (2) The date of payment.

For purposes of this section, the due date for a return filed for the state gross retail or use tax, the gasoline tax, the special fuel tax, the motor carrier fuel tax, the oil inspection fee, or the petroleum severance tax is the end of the calendar year which contains the taxable period for which the return is filed. The claim must set forth the amount of the refund to which the person is entitled and the reasons that the person is entitled to the refund.

Taxpayer paid the sales tax in November 2015 but requested a refund of the sales tax October 2018. Taxpayer's

request was clearly inside the statute of limitations stated in IC § 6-8.1-9-1. Thus, pursuant to IC § 6-8.1-9-1 Taxpayer's refund request was timely and their protest is sustained.

FINDING

Taxpayer's protest is sustained.

October 31, 2019

Posted: 12/25/2019 by Legislative Services Agency
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